

Querella inofficiosi testamenti – fundamental basis

Abstract

The topic of this thesis is Roman law of succession, specifically the presentation of fundamentals of a claim in Roman law by the name of *querella inofficiosi testamenti*. The introduction contains questions concerning its character, specifics, position in the system of Roman law of succession, origins and guiding principles, which the thesis aims to answer. To define the term of the claim properly, it was necessary to first outline not only the *officium pietatis* term, which was in the Roman legal theory used for regard to the closest family, but also the development of Roman law of succession from the absolute freedom of testation of the testator to their limitation by the determination of the reserved portion claim for close family. As for the interpretation of the claim itself, with regard to the fact that there is only a limited number of primary sources concerning the claim and connected issues, were those mainly used in combination with larger number of secondary, predominantly foreign Roman law literature, sources, which thoroughly study given topics. *Querella inofficiosi testamenti* is a claim that, if successful, can interfere with the legal certainty of existing inheritors by breaching the almost untouchable „*Semel heres, semper heres*“ principle. The reason is that if, based on the used claim, a decision is made that the testator did not fulfil their obligation to leave a part of inheritance, that later became the reserved portion, to a specific close family relatives, the will or its part is declared invalid. Considerable attention is dedicated to the issue of mere partial invalidation of will, with regard to a number of questions that, to this day, arise from it. Because Roman law has been organically developing over time, extensive attention has been dedicated to this claim changing over time, with emphasis on its modifications made by the Emperor Justinian.

Key words

Roman law; inheritance law; querella inofficiosi testamenti; compulsory share;